

HON. RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DANIEL COSTELLO,

Plaintiff,

v.

LIFE INSURANCE COMPANY OF
NORTH AMERICA,

Defendant.

Case No. 2:20-cv-00277-RSM

STIPULATED MOTION FOR LEAVE TO
FILE UNREDACTED “ADMINISTRATIVE
RECORD” UNDER SEAL AND [PROPOSED]
ORDER

NOTED FOR HEARING: **04/17/2020**

I. Relief Requested

The parties respectfully move the Court, pursuant to Federal Rule of Civil Procedure 5.2(d) and Local Civil Rule 5(g), to order that the “Administrative Record” in this matter – the defendant insurance company’s claim file – be filed under seal, without redactions.

II. Relevant Facts and Legal Authority

This action arises under the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001 *et seq.* The parties agree that the Court will need to consider Defendant’s

1 claim file regarding Plaintiff's long-term disability claim. Such files have come to be called the
2 "Administrative Record" in ERISA benefit cases. Here, that 2,941-page file is primarily medical
3 records and other documents addressing Plaintiff's medical conditions.

4 Although Local Civil Rule 5(g) establishes a "strong presumption in favor of public
5 access to the Court's files," this Court recognizes the "need to protect medical privacy qualifies
6 in general as a 'compelling reason'" to allow records to be filed under seal. *Karpenski v. Am.*
7 *Gen. Life Companies, LLC*, No. 2:12-CV-01569-RSM, 2013 WL 5588312 at *1 (W.D. Wash.
8 Oct. 9, 2013), (quoting Local Civil Rule 5(g) and *Kamakana v. City and County of Honolulu*,
9 447 F.3d 1172, 1179 (9th Cir. 2006)). *See also Macon v. United Parcel Serv., Inc.*, 2013 WL
10 951013, at *5 (W.D. Wash. Mar. 12, 2013) (granting unopposed motion to seal medical records
11 given the "private nature of the documents at issue").

12 Local Civil Rule 5.2(c) states that "in an action for benefits under the Social Security
13 Act" the "administrative record must be filed under seal" because those "actions are entitled to
14 special treatment due to the prevalence of sensitive information and the volume of filings." *Id.*
15 That reasoning applies to this action for ERISA disability benefits. Sensitive information
16 concerning the Plaintiff is found throughout the claim file.

17 As certified below, the parties discussed whether redaction would be a suitable
18 alternative. Due to the volume of the record, and that it would require extensive redaction, the
19 parties believe redaction is not a reasonable alternative. Federal Rule of Civil Procedure 5(d)
20 provides that the "court may order that a filing be made under seal without redaction" and the
21 parties respectfully move the Court to so order here.

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III. Local Rule 5.2(g)(3)(A) Certification

The parties certify pursuant to Local Rule 5.2(g)(3)(A) that attorney Mel Crawford representing Plaintiff and attorney Charles Huber representing Defendant conferred by telephone on April 17, 2020, to discuss filing the record under seal and to explore redaction and other alternatives to filing under seal. They agreed redaction was not a reasonable means to protect Plaintiff's medical privacy, because the documents would need to be so heavily redacted.

IV. Conclusion

The parties respectfully move the Court to order that the "Administrative Record" in this matter be filed under seal.

IT IS SO STIPULATED THIS 17th day of April 2020.

LAW OFFICE OF MEL CRAWFORD

By s/Mel Crawford
Mel Crawford, WSBA # 22930
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Attorney for Plaintiff

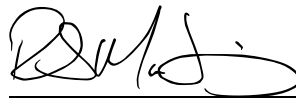
LANE POWELL PC

By: s/Charles C. Huber
Charles C. Huber, WSBA No. 18941
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Attorneys for Defendant

ORDER

IT IS SO ORDERED. The Court GRANTS the parties' stipulated motion and ORDERS that the administrative record in this action be filed and maintained under seal. Pursuant to Federal Rule of Civil Procedure 5(d), the record need not be redacted.

DATED this 17th day of April, 2020.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE